

Regular Session, 2012

ACT No. 193

HOUSE BILL NO. 386

BY REPRESENTATIVE PONTI

AN ACT

To amend and reenact R.S. 37:2175.1(A)(introductory paragraph), 2175.2(C), and 2175.3(B) and to enact R.S. 37:2175.1(A)(6) and (7), (D), and (E) and 2175.3(A)(9) and (10), relative to home improvement contracting in connection with the repair or replacement of a roof system; to provide for definitions; to lower the minimum threshold amount for home improvement contracting; to provide for a right to cancel a contract for home improvement contracting; to require notice of the right to cancel; to provide for refund of payments; to require proof of general liability insurance in a minimum amount; to prohibit a home improvement contractor from advertising or promising to pay or rebate all or any portion of an applicable insurance deductible as an inducement to the sale of goods or service; to provide for nullification of the contract and a cause of action for violations; to provide for an unfair trade practice violation; to provide for remedies for violations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:2175.1(A)(introductory paragraph), 2175.2(C), and 2175.3(B) are hereby amended and reenacted and R.S. 37:2175.1(A)(6) and (7), (D), and (E) and 2175.3(A)(9) and (10) are hereby enacted to read as follows:

§2175.1. Home improvement contracting; written contract required; right to cancel

A. Every agreement to perform home improvement contracting services, as defined by this Part, in an amount in excess of ~~seventy-five~~ one thousand five

1 hundred dollars, but not in excess of seventy-five thousand dollars, shall be in
2 writing and shall include the following documents and information:

3 * * *

4 (6) If the contract is for goods or services in connection with the repair or
5 replacement of a roof system to be paid from the proceeds of a property or casualty
6 insurance policy, a statement in boldface type of a minimum size of ten points, in
7 substantially the following form:

8 "You may cancel this contract in connection with the repair or replacement
9 of a roof system at any time within seventy-two hours after you have been notified
10 that your insurer has denied all or any part of your claim to pay for the goods and
11 services to be provided under this contract. See attached notice of cancellation form
12 for an explanation of this right."

13 (7) If the contract is for goods or services in connection with the repair or
14 replacement of a roof system to be paid from the proceeds of a property or casualty
15 insurance policy, a fully completed form in duplicate, captioned "NOTICE OF
16 CANCELLATION", which shall be attached to the contract but easily detachable,
17 and which shall contain, in boldface type of a minimum size of ten points, the
18 following statement:

19 "NOTICE OF CANCELLATION

20 If your insurer denies all or any part of your claim to pay for goods and
21 services in connection with the repair or replacement of a roof system to be provided
22 under this contract, you may cancel the contract by mailing or delivering a signed
23 and dated copy of this cancellation notice or any other written notice to (name of
24 home improvement contractor) at (address of contractor's place of business) at any
25 time within seventy-two hours after you have been notified that your claim has been
26 denied. If you cancel, any payments made by you under the contract, except for
27 certain emergency work already performed by the contractor, shall be returned to
28 you within ten business days following receipt by the contractor of your cancellation
29 notice.

1 I HEREBY CANCEL THIS TRANSACTION

2 _____
3 (Date)
4 _____

5 (Insured's Signature)"

6 * * *

7 D.(1) A person who has entered into a written contract with a home
8 improvement contractor to provide goods or services in connection with the repair
9 or replacement of a roof system to be paid from the proceeds of a property or
10 casualty insurance policy may cancel the contract within seventy-two hours after the
11 insured party has been notified by the insurer that all or any part of the claim has
12 been denied. Cancellation shall be evidenced by the insured party giving written
13 notice of cancellation to the home improvement contractor at the address stated in
14 the contract. Notice of cancellation, if given by mail, shall be by certified mail,
15 return receipt requested, and shall be effective upon deposit into the United States
16 mail, postage prepaid, and properly addressed to the home improvement contractor.
17 Notice of cancellation need not take a particular form and shall be sufficient if it
18 indicates, by any form of written expression, the intention of the insured party not
19 to be bound by the contract.

20 (2) Within ten days after a contract referred to in this Subsection has been
21 cancelled, the home improvement contractor shall tender to the owner or possessor
22 of the residential real estate any payments, partial payments, or deposits made by the
23 insured party and any note or other evidence of indebtedness. If, however, the home
24 improvement contractor has performed any emergency services, acknowledged by
25 the insured in writing to be necessary to prevent damage to the premises, the home
26 improvement contractor shall be entitled to the reasonable value of such services.

27 E. For the purposes of this Part, "roof system" means the components of a
28 roof, including but not limited to covering, insulation, and ventilation.

29 §2175.2. Home improvement contracting; registration required

30 * * *

1 C. The applicant shall furnish the board proof of general liability insurance
2 in a minimum amount of one hundred thousand dollars, proof of workers'
3 compensation insurance, and proof of registration with the Department of Revenue
4 by providing a certificate of resident/nonresident status.

5 * * *

6 §2175.3. Home improvement contracting; prohibited acts; violations

7 A. The following acts are prohibited by persons performing home
8 improvement contracting services:

9 * * *

10 (9) Advertising or promising to pay or rebate all or any portion of an
11 applicable insurance deductible as an inducement to the sale of goods or services in
12 connection with the repair or replacement of a roof system. For the purposes of this
13 Section, a promise to pay or rebate the insurance deductible shall include granting
14 any allowance or offering any discount against the fees to be charged or paying the
15 insured party any form of compensation for any reason, including but not limited to
16 permitting the home improvement contractor to display a sign or any other type of
17 advertisement at the insured party's premises, or paying an insured party for
18 providing a letter of referral or recommendation. If a home improvement contractor
19 violates this Paragraph:

20 (a) The insurer to whom the insured party tendered the claim shall not be
21 obligated to consider the estimate prepared by the home improvement contractor.

22 (b) The insured party or the applicable insurer may bring an action against
23 the home improvement contractor in a court of competent jurisdiction for damages
24 sustained as a result of the home improvement contractor's violation.

25 (10) Failing to obtain any insurance required by federal law.

26 B.(1) Violations of this Section shall subject the violator to the
27 administrative sanctions as prescribed in this Part.

28 (2) A violation of Paragraph (A)(9) of this Section shall constitute a
29 prohibited practice under the Unfair Trade Practices and Consumer Protection Law.

1 R.S. 51:1401 et seq., and shall be subject to the enforcement provisions of that
2 Chapter.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____